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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of:

)Attorney Docket No.: E-906

Raymond G. Mather et al.

)Group Art Unit: 3639

Serial No.: 09/475,364

)Examiner: A. Robinson Boyce

Filed: Dec. 30, 1999

)Date: January 4, 2006

Confirmation No.: 6248

Title: Method And System For Tracking Disposition Status
Of An Item To Be Delivered Within An Organization

Mail Stop Appeal Brief - Patents
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APPELLANTS' BRIEF ON APPEAL

Sir:

This is an appeal pursuant to 35 U.S.C. § 134 and 37 C.F.R. §§ 1.191 et seq. from the final rejection of claims 1 and 3-12 of the above-identified application mailed Aug. 19, 2005. The fee for submitting this Brief is \$500.00 (37 C.F.R. § 1.17(c)). Please charge Deposit Account No. **16-1885** in the amount of \$500.00 to cover these fees. The Commissioner is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. **16-1885**. Enclosed with this original are two copies of this brief.

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I. Real Party in Interest

The real party in interest in this appeal is Pitney Bowes Inc., a Delaware corporation, the assignee of this application.

II. Related Appeals and Interferences

There are no appeals or interferences known to Appellants, their legal representative, or the assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. Status of Claims

Claims 2 and 13-24 have been cancelled. Claims 1, 3 and 5-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tams et al. (US 6,279,037) in view of Raubert et al. (US 6,182,053). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tams et al. in view of Raubert et al. and further in view of Kadaba et al. (EP 0 787 334 B1).

IV. Status of Amendments

There are no amendments to the claims filed subsequently to the final rejection of August 19, 2005. Therefore, the claims as set forth in Appendix A to this brief are those as set forth before the final rejection.

V. Summary of Claimed Subject Matter

This summary and references to specific page and line numbers, figures and reference characters is not intended to supplant or limit the description of the claimed subject matter as provided in the claims as recited in Appendix A, as understood in light of the entire specification.

Appellants' invention relates to a system for tracking the receipt and internal movement resulting in final disposition of items within an organization. Claim 1 is directed to a system for tracking receipt and internal movement resulting in a delivery or other final disposition status of items such as packages within an organization, wherein each item is sent by a sender and received from a carrier to be delivered to a recipient, the system comprising "a portable data terminal programmed to record information regarding receipt of the item and recoding information regarding the internal movement of the item wherein the receipt information and the internal movement information are recorded within a data collection format" (see Fig. 1, item 30, portable data terminal and corresponding description on page 10, line 14 to page 11, line 22); "a base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format" (see Fig. 1, item 20, base station and corresponding description on page 11, line 22 to page 12, line 9); "means for allowing a user to create one or more data collection formats at the base station, and to transmit the one or more data collection formats to the portable data terminal" (see Fig. 1, item 22, data input device, item 24, display screen, Figs. 16-24 and corresponding description of the creating/modifying program run on the base station 20 on page 21, line 4 to page 25, line 5, and the connection cradle 50 of Fig. 1).

Additional features of the invention are discussed below in the Argument section of this Brief.

VI. Grounds of Rejection to be Reviewed on Appeal

A. Whether the subject matter defined in claims 1, 3 and 5-12 would have been obvious Tams et al. in view of Raubert et al., and whether the subject matter defined in claim 4 would have been obvious over Tams et al. in view of Raubert et al. and further in view of Kadaba et al.

VII. Argument

As Appellants discuss in detail below, the final rejection of claims 1 and 3-12 is devoid of any factual or legal premise that supports the position of unpatentability. It is respectfully submitted that the rejection does not even meet the threshold burden of presenting a prima facie case of unpatentability. For this reason alone, Appellants are entitled to grant of a patent. In re Oetiker, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992).

A. The subject matter defined by claims 1, 3 and 5-12 would not have been obvious over Tams et al. in view of Raubert et al.

Claim 1 is directed to a system for tracking receipt and internal movement of items within an organization. Specifically, claim 1 recites:

A system for tracking receipt and internal movement resulting in a delivery or other final disposition status of items such as packages within an organization, wherein each item is sent by a sender and received from a carrier to be delivered to a recipient, said system comprising:

- a) a portable data terminal programmed to:
 - (i) record information regarding the receipt of the item, and
 - (ii) record information regarding the internal movement of the item wherein the receipt information and the internal movement information are recorded with a data collection format;
- b) a base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format; and
- c) means for allowing a user to create one or more data collection formats at the base station, and to transmit the one or more data collection formats to the portable data terminal,

wherein the portable data terminal can collect data in the one or more data collection formats transmitted by the base station.

An aspect of the present invention, as recited in claim 1, is the ability for each organization to utilize its own preferred format for recording data relating to the receipt and

internal delivery of an item by allowing the data collection format for recording tracking information to be created and/or modified by the user of the portable data terminal in accordance with the user's needs. Thus, the portable data terminal 30 is programmed to record information in a certain data collection format. The base station 20 is used to create a new data collection format or modify an existing data collection format according to the user's needs. The base station 20 sends an electronic file via the connection cradle 50 to the portable data terminal 30 to modify the data collection format. (Specification, page 11, lines 21-26).

A data collection format is a different combination of data entry fields including the name of the carrier, the name of the intended recipient (employee), the carrier barcode, the name of the sender, the PO number of Mail Stop number of the internal delivery address, and reference notes. (Specification, page 13, line 27, to page 14, line 3). Fig. 3B, reproduced below, illustrates the format contents of different Receiving data collection formats.

<u>RCV2</u>	<u>RCV1</u>	<u>RCV3</u>	<u>RCVPO</u>	<u>RCVQCK</u>
CARRIER	CARRIER	CARRIER	CARRIER BARCODE	CARRIER
EMPLOYEE NAME	SENDER NAME	CARRIER BARCODE	CARRIER	CARRIER BARCODE
CARRIER BARCODE	EMPLOYEE NAME	EMPLOYEE NAME	SENDER NAME	
	CARRIER BARCODE		PO NUMBER	
			EMPLOYEE NAME	
			REF. NOTES	

FIG. 3B

The user can select one of the receiving data collection formats for recording receipt of an item. However, if the user wants to modify the existing collection formats or create one or more new collection formats, he or she can do so on the base station 20. The modified or newly created data collection formats can then be transferred from the base station 20 to the portable data terminal 20 via the connection cradle 50. (Specification, page 14, lines 3-10).

Fig. 11B, reproduced below, illustrates the format contents of different Delivery data collection formats. As shown, each data collection format is a different combination of data entry fields including the name of the carrier, the name of the intended recipient (employee), the

carrier barcode, the name of the sender, and the person who actually signs for the delivered item. The user can select one of the delivery collection formats for recording the delivery of an item.

<u>COMBO</u>	<u>DVLDEM</u>	<u>DVL2</u>	<u>DLVQCK</u>	<u>DVL1</u>
CARRIER BARCODE	CARRIER BARCODE	PACKAGE ID	TRACKING NUMBER	EMPLOYEE NAME
CARRIER	EMPLOYEE NAME	DELIVERED TO:	DELIVERED TO:	CARRIER BARCODE
EMPLOYEE NAME	SENDER NAME			DELIVERED TO:
PO NUMBER				

FIG. 11B

If the user wants to create a new data collection format or modify an existing one, the user uses the base station 20. As illustrated in Fig. 16, a Configuration Utility window 300 is displayed to the user after the creation/modifying program has been started. The Configuration Utility window 300 includes a Format option 302 that can be selected to create or modify the Receiving, Delivery or Combination data collection formats as shown in Figs. 3B and 11B. The data collection formats as created and modified in the base station 20 provide configuration information that the portable data terminal 30 uses to control prompts, prompt sequence and field attributes. (Specification, page 21, lines 4-17).

Thus, Appellants' invention provides a portable data terminal that can be used to record data for the receipt of items and the status information related to the internal delivery or other final disposition of the received items. The data collection formats are used for data collection and can be created and/or modified by the user according to the user's needs. The creation and/or modification of the data collection formats are carried out in a base station. The base station is capable of communicating with the portable data terminal in order to modify the data collection formats. The present invention therefore provides the ability for each organization to utilize its own preferred format for recording data relating to the receipt and internal delivery of an item by allowing the data collection format for recording tracking information to be created and/or modified by the user of the portable data terminal in accordance with the user's needs. Thus, for example, one organization might desire to collect only the carrier name, employee name, and carrier barcode for the item (illustrated in Fig. 3B above as Receiving data collection

format RCV2), while another organization might desire to collect the same information and additionally the sender's name (illustrated in Fig. 3B above as Receiving data collection format RCV1).

Tams et al., in contrast, is directed to a system that can be used to collect, store and process data regarding traffic in a computer network or intranet. An intranet 200 includes three LANS 120, 130, 140 each of which includes a plurality of computers. The computers within in each LAN are coupled together by a data link 26, 36, 46. To obtain information on each of the network segments 26, 36, 46 probes 127, 137, 147 are included in each of the LANS, respectively. The probes collect information about the traffic on their respective network segments. (Col. 8, lines 7-38). The various probes within each system may utilize different counting techniques and data table storage formats when collecting and processing network traffic data. In Tams et al., the network traffic data collected from each of the probes is processed to place it into a common data format that is selected to provide a maximum degree of information in a format that is easy to use. (Col. 6, lines 4-18).

Note first that Tams et al. is not directed to tracking receipt and internal movement resulting in a delivery or other final disposition status of items such as packages within an organization as the present invention. "In order to rely on a reference as a basis for rejection of an applicant's inventions, the reference must either be in the field of the applicants' endeavor, or if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Appellants respectfully submit that Tams et al. is not in the same field of the applicant's endeavor, nor is it reasonably pertinent to the particular problem with which the inventor was concerted. Accordingly, the reference to Tams et al. is non-analogous art and cannot properly be relied upon as a basis for rejection.

Even if, for arguments sake, Tams et al. was considered analogous art, it still does not disclose, teach or suggest a base station capable of communicating with the portable data terminal for uploading electronic files for modifying the data collection format; and means for allowing a user to create one or more data collection formats at the base station and transmit the one or more data collection formats to the portable data terminal, wherein the portable data

terminal can collect data in the one or more data collection formats transmitted by the base station as is recited in claim 1. The Office Action contends that Col. 11, lines 19-63, of Tams et al. discloses these features. Appellants respectfully disagree.

In Tams et al., to minimize the amount of data processing required to put a probe's network traffic data into the common format used by a management system and to maximize the amount of information collected, the network data is obtained from a probe using one of the available RMON2 table formats. The RMON2 table format is selected in the following order of preference: alMatrixTopN(Terminal Mode), alMatrixTopN(All Mode), alMatrix, nlMatrixTopN and nlMatrix. (Col. 6, lines 36-46).

Thus, in Tams et al. there are only five table formats available for use, and the format selected is based entirely on the type of probe. This is in direct contrast to the present invention in which the system is configurable to allow a user to create one or more data collection formats at the base station, transmit the data collection format to the portable data terminal and collect the data in the data collection format at the portable data terminal. As noted in Col. 11, lines 19-63 and Fig. 4A of Tams et al., once a probe is detected, an initialization routine determines the network traffic table format that is to be used with the detected probe. In step 306 a determination is made if the probe being initialized supports application layer tables (alMatrix). If the probe includes alMatrix support, the management station 150 signals the probe to create an alMatrixTopN table using terminal mode counting. In step 308, the management station 150 signals the probe to create an alMatrixTopN table using terminal mode counting. If, in step 310, it is determined, e.g., by receipt of a signal from the probe, that creation of the desired alMatrixTopN table was successful, operation proceeds to step 312. In step 312, probe information in memory is updated to include an entry on the probe being initialized and to indicate that the probe's data is in alMatrixTopN(Terminal Count Mode) format. If, in step 310 it was determined that terminal alMatrixTopN table creation was unsuccessful, in step 314 the management system 150 signals the probe being initialized to create an alMatrixTopN table using all count mode (as opposed to terminal count mode) counting. If, in step 316, it is determined that all count Mode alMatrixTopN table creation was successful, in step 318, probe information in memory is updated to include an entry on the probe being initialized and to indicate that the probe's data is in alMatrixTopN(all mode counting) format. If, in step 316, it is

determined that all Mode alMatrixTopN table creation was unsuccessful, in step 320, probe information in memory is updated to include an entry on the probe being initialized and to indicate that the probe's data is in alMatrix format. If in step 306, it is determined that the probe being initialized does not support alMatrix tables, a network layer table must be selected for use. In such a case, operation proceeds from step 306 to step 324 wherein the management station 150 signals the probe being initialized to create an nlMatrixTopN table. In step 326, a determination is made as to whether or not creation of the nlMatrixTopN table was successful. If, in step 326, it is determined that nlMatrixTopN table creation was successful, then in step 328, probe information in memory is updated to include an entry on the probe being initialized and to indicate that the probe's data is in nlMatrixTopN format. If, in step 326, it is determined that all Mode nlMatrixTopN table creation was unsuccessful, then in step 330, probe information in memory is updated to include an entry on the probe being initialized and to indicate that the probe's data is in nlMatrix format.

Thus, in Tams et al. every probe is initialized to use one of the five predetermined table formats in a predetermined order of preference. The system in Tams et al. is in no way configurable by the user to allow the user to create one or more data collection formats at the base station, transmit the data collection format to the portable data terminal and collect data in the data collection format. The probe must use one of the predetermined table format based on the type of format the probe supports. There is no disclosure, teaching or suggestion in Tams et al. of a base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format; or means for allowing a user to create one or more data collection formats at the base station and transmit the one or more data collection formats to the portable data terminal, wherein the portable data terminal can collect data in the one or more data collection formats transmitted by the base station as is recited in claim 1.

The reference to Rauber et al. does not cure the above deficiencies. Rauber et al. is directed to a method and apparatus for managing inventory in a distressed inventory warehouse. Rauber et al. was relied on by the Office Action solely for the purpose of teaching an inventory management system. There is no disclosure, teaching or suggestion in Rauber et al. of a base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format; or means for allowing a user to create one or more data

collection formats at the base station and transmit the one or more data collection formats to the portable data terminal, wherein the portable data terminal can collect data in the one or more data collection formats transmitted by the base station as is recited in claim 1.

For at least the above reasons, Appellants respectfully submit that the final rejection as to claim 1 is in error and should be reversed. Claims 3 and 5-12 are dependent upon claim 1, and therefore include all of the limitations of claim 1. For the same reasons the final rejection as to claim 1 is in error, Appellants respectfully submit that the rejection of claims 3 and 5-12 is similarly in error and should be reversed.

B. The subject matter defined by claim 4 would not have been obvious over Tams et al. in view of Raubert et al. and further in view of Kadaba et al.

Claim 4 is dependent upon claim 1 through intervening claim 3, and therefore includes all of the limitations of claims 1 and 3. As noted above with respect to claim 1, neither Tams et al. nor Rauber et al., either alone or in combination, disclose, teach or suggest a base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format; or means for allowing a user to create one or more data collection formats at the base station and transmit the one or more data collection formats to the portable data terminal, wherein the portable data terminal can collect data in the one or more data collection formats transmitted by the base station as is recited in claim 1. The reference to Kadaba et al. does not cure the above deficiencies, as it was relied upon for other features. For the same reasons the final rejection as to claim 1 is in error, Appellants respectfully submit that the rejection of claim 4 is similarly in error and should be reversed.

VIII. Conclusion

In Conclusion, Appellants respectfully submit that the final rejection of claims 1 and 3-12 is in error for at least the reasons given above and should, therefore, be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian A. Lemm", written over a horizontal line.

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Attachments - Appendix A – Claims Appendix (3 pages)
Appendix B – Evidence Appendix (1 page)
Appendix C – Related Proceedings Appendix (1 page)

APPENDIX A – Claims Appendix

1. A system for tracking receipt and internal movement resulting in a delivery or other final disposition status of items such as packages within an organization, wherein each item is sent by a sender and received from a carrier to be delivered to a recipient, said system comprising:

- a) a portable data terminal programmed to:
 - (i) record information regarding the receipt of the item, and
 - (ii) record information regarding the internal movement of the item wherein the receipt information and the internal movement information are recorded with a data collection format;
- b) a base station for communicating with the portable data terminal for uploading electronic files for modifying the data collection format; and
- c) means for allowing a user to create one or more data collection formats at the base station, and to transmit the one or more data collection formats to the portable data terminal,

wherein the portable data terminal can collect data in the one or more data collection formats transmitted by the base station.

2. Cancelled.

3. The system of claim 1, further comprising a data processing unit capable of communicating with the portable data terminal, wherein the data processing unit is programmed to

- (a) maintain a database of records relating to the received items, each of said records identifying an internal delivery address and internal movement status for a corresponding one of said received items;
 - (b) maintain a database of recipient names; and
 - (c) generate a manifest of selected ones of said received items.
4. The system of claim 3, wherein the data processing unit is further programmed to maintain a database of sender names, and carrier names related to said received items.
5. The system of claim 3, wherein the data processing unit is further programmed to provide status information related to said received items through searches, displays, lists, reports and other query and reporting elements.
6. The system of claim 1, wherein the portable data terminal is further programmed to associate the receipt of items with the recipients, the senders and the carriers.
7. The system of claim 1, wherein the portable data terminal comprises:
- (a) a display device to display information regarding the receipt and the internal movement of items;
 - (b) an inputting device to input information regarding the receipt and the internal movement of items; and
 - (c) a communication device to communicate with the base station.
8. The system of claim 7, wherein the received items contain a barcode to identify the items and the inputting device includes a barcode reader to read the barcode.

9. The system of claim 7, wherein the information displayed on the display device includes a popup list having entry items in order for a user to enter into the portable data terminal information regarding the receipt and the internal movement of an item by selecting the entry item from the popup list.

10. The system of claim 7, wherein the display device displays a plurality of entry fields to allow a user to enter into the portable data terminal information regarding the receipt and the internal movement of an item through the entry fields.

11. The system of claim 1, further comprising a communication medium so as to allow the portable data terminal to communicate with the base station via the communication medium.

12. The system of claim 3, further comprising a connection cradle so as to allow the portable data terminal to communicate with the data processing unit via the connection cradle.

13-24. Cancelled.

APPENDIX B – EVIDENCE APPENDIX

There is no evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence entered by the examiner and relied upon by Appellant in the appeal.

APPENDIX C – RELATED PROCEEDINGS APPENDIX

There are no appeals or interferences known to Appellants, their legal representative, or the assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.